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THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

Office of the United Nations of Verification in El Salvador

Report of the Secretary-General

I. INTRODUCTION

1. The present report is submitted pursuant to General Assembly resolution 50/226 of 10 May 1996, by which the Assembly decided, inter alia, to establish the United Nations Office of Verification in El Salvador, to follow up implementation of pending aspects of the peace accords in El Salvador through 31 December 1996 after the expiration of the mandate of the Mission of the United Nations in El Salvador (MINUSAL).

2. As the members of the General Assembly will recall, I last submitted a report on the status of implementation of the peace accords in El Salvador on 23 April 1996 (A/50/935). Since then I have submitted an informal report to the Security Council (31 July 1996) and, on several occasions, dispatched a high-level envoy from New York to hold meetings with the President, the Frente Farabundo Martí para la Liberación Nacional (FMLN) and other key political actors and to assist the Office in the discharge of its responsibilities.

3. The present report assesses the status of implementation of the peace agreements between 1 May and 20 November 1996 as the expiration of the Office's mandate on 31 December 1996 approaches. During this period the Office has concentrated on verification of those aspects of the peace accords concerning which my report of 23 April 1996 had established that implementation was not yet complete. Besides the concluding observations, the main body of the present report is divided into six sections, on public security; human rights and the

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judicial system; economic and social issues; electoral matters; technical assistance programmes; and administrative questions.

II. PUBLIC SECURITY

4. In my report of 23 April, I referred to the expectation created by the establishment of the National Council on Public Security by President Calderón Sol. Although there has been delay in the definition of its mandates and objectives, I am glad to express satisfaction that the President of the Republic has repeatedly expressed his support for the proposals that Council has presented. This development is particularly welcome given that the positions defined by the Council fall clearly within the public security doctrine established by the peace accords. In this regard, I have no doubt that the Council, following the precise instructions of the President, will act to strengthen the institutions of the public security sector through a broad restructuring that will bring greater coherence to government policies. I also look forward to the Council's concrete recommendations aimed at overcoming the most sensitive of the problems verified in the area of public security.

5. Among those problems, a persistent issue, and one that jeopardizes the institutional strengthening of the National Civil Police, remains the performance of police functions by persons who have not graduated from the National Public Security Academy and are therefore not subject to the norms established for the police. Compliance with those norms, especially those contained in the recently approved Police Career Law, which is an exemplary instrument for the professionalization of the police force, is of the utmost importance. In this context, maintaining the schedule for ending the housing of police personnel in barracks will be a particularly valid contribution to the reinforcement of the civilian character of the police force and will enhance the relationship between police and community. As recommended in my previous reports, it also remains necessary for attention to be given to the strengthening of the National Civil Police mechanisms of internal control. Measures to revitalize the office of the Inspector General of the National Civil Police, in accordance with recommendations made by international technical advisers, would allow that body to provide effective oversight of the police and thus foster a greater level of public respect for the police force.

6. I have been pleased to learn that the National Council on Public Security shares the view that preferential treatment should be given to the promotion of professional and scientific criminal investigation within the specialized divisions and departments of the National Civil Police, such as the Division for Criminal Investigation and the Department for the Investigation of Organized Crime. In the promised restructuring of the sector it should also be borne in mind that the efficacy of the police force will depend both on strict processes of selection and training of those aspiring to enter the Academy and on the permanent training, evaluation and selection of agents who are already serving in the specialized bodies of the National Civil Police.

7. The implementation of a new public security doctrine depends to a great extent on the confidence which the institutions related to public security are able to generate among the public. The Council is in a position to structure a

strategy for citizen participation compatible with the new post-war reality of the country. It is therefore to be hoped that it will work to make effective the commitment of the President of the Republic to dismantle completely the juntas de vecinos (neighbourhood groups) established to combat crime outside the existing institutional framework.

8. Finally, I should like to reiterate my gratitude to the international community for its generous cooperation with the process of strengthening the new public security institutions in El Salvador. However, while requesting that this cooperation be continued, I should also like to reiterate that, in order to be most effective, it should be undertaken in a coordinated manner so as to avoid duplication and to ensure coherence with the objectives established in the peace accords.

III. HUMAN RIGHTS AND THE JUDICIAL SYSTEM

9. In my informal report to the Security Council of 31 July 1996, I indicated that progress by the office of the National Counsel for the Defence of Human Rights in the elaboration and publication of resolutions had remained slow. In recent months advances in this area have been notable, and have led to the hope that they will be complemented by a mechanism that is able to monitor compliance with the resolutions of the office of the National Counsel. For this to be achieved, it is important that, as I have mentioned on previous occasions, the office of the National Counsel should be able to act in coordination with, and in a manner complementary to, other state bodies. It is also to be hoped that other government officials will take pains to understand the legitimacy and relevance of this institution for the strengthening of the rule of law.

10. During the reporting period two important initiatives related to the development of internal mechanisms for the protection and promotion of human rights have become concrete. One of these was an agreement signed on 16 July between the National Counsel and the Minister for Public Security to coordinate the action of the office of the National Counsel and the National Civil Police in situations where social tensions might give rise to violence. It is to be hoped that the institutions bound by this agreement will make every effort to ensure that it is effective. In addition, the office of the National Counsel, with the support of international cooperation, is now able to form a unit specializing in public security, which should greatly aid the National Counsel's efforts in this area.

11. The peace accords provided El Salvador with exemplary instruments with which to oversee the action of the State and control possible abuses of power, the most notable among them being the office of the National Counsel for the Defence of Human Rights. However, this key institution continues to be hampered in its development by inadequate funding. I therefore urge the Government to provide the office of the National Counsel with the budgetary resources necessary for it to carry out its important responsibilities. The provision of such resources would represent a clear demonstration of the repeatedly expressed will of the Government to ensure the effectiveness of the instruments for the consolidation of democracy created by the peace accords. These issues continue to be followed, with the highest expectations, by the international community.

12. The process of approving constitutional and legal reforms has been one of the areas in which the most significant advances have been verified in the reporting period. In my informal report to the Security Council, I expressed my satisfaction with the achievement of a broad political consensus that allowed for the ratification of various articles of the Constitution and the reformulation of others by the Legislative Assembly. I am pleased to report that this same positive political attitude appears likely to permit approval of the new Criminal Procedures Code in the near future, a development that will contribute substantially to the modernization of the administration of justice in El Salvador. With this new legislation the parties will have complied with some important pending recommendations of the Commission on the Truth. However, reforms in the area of criminal law will not be complete until the new Criminal Code and Penitentiary Law (a measure that will provide some solutions to the still difficult situation in the country's prisons) have been approved. In view of the advances in this area, it is to be hoped that, before the end of the mandate of the present legislature, full compliance with the outstanding recommendations of the Commission on the Truth will be achieved. Similarly, approval by the Assembly of the law of constitutional procedure, the organic law of the judicial system and the new military criminal codes is still pending.

13. The entry into force of the new criminal legislation has been subjected to a vacatio legis of sufficient length to allow for measures to be taken in the meantime to train those responsible for its implementation and to prepare the necessary infrastructure. The success of the reforms will depend to a great extent on progress in the vetting (depuración) of judges and judicial officials, which continues to be inadequate. There also remains a lack of coordination between judges, prosecutors and police agents. This problem, which has a detrimental effect on the functioning of the justice system as a whole, has worsened during the reporting period because of repeated confrontations between the judicial sector and the Ministry of Public Security. Improvement is imperative if public confidence in national institutions is to increase. I should like to pay tribute to the considerable efforts undertaken by the President of the Republic in this regard.

IV. ECONOMIC AND SOCIAL ISSUES

14. I am pleased to report that the land transfer programme has continued to advance at a satisfactory rate. Under the new administration of the Lands Bank, most of the technical problems encountered in the past have been overcome and progress has been registered even in the eastern part of the country, where the programme had encountered most difficulties. As at 19 November 1996, 34,413 beneficiaries (98.93 per cent of the total) had been titled, while the number of deeds reported to have been filed in the national registry had risen to 29,974. In view of this progress, it should be possible to complete the titling phase of the programme by the end of December.

15. Similarly, the campaign to distribute authenticated photocopies of pro indiviso titles (where title to a single property is issued to a group of beneficiaries) had achieved the goals established by the Government, particularly with respect to landholders and ex-combatants of FMLN.

16. However, in spite of these notable advances, some aspects of the programme may remain pending beyond the end of 1996. It will also be necessary to find a solution to minor problems that have arisen during the implementation of the programme, such as the finding of alternatives for some 600 beneficiaries who received properties of questionable legal status. The programme's statistics will also need to be consolidated and cleansed of titles that do not correspond to the programme and double titles issued to some beneficiaries. A solution to these problems will require the parties to the peace accords to search jointly for modalities that will allow for verification of completion of the different aspects of the programme.

17. The distribution of titles to beneficiaries from the armed forces has encountered some difficulties, owing to the absence of some beneficiaries from their properties and a low level of attendance by beneficiaries at the title distribution points. The filing of the titles of state properties transferred by the Salvadoran Institute for Agrarian Transformation has also been slow and will cause the programme to be extended beyond 15 December 1996, the date envisaged for its completion.

18. Uncertainty about the future of the land transfer programme has increased among beneficiaries following the confusion that accompanied the approval of Decree 699, the law for the restructuring of the agrarian debt, and the Government's proposal to divide properties transferred in a single block, pro indiviso, into individual parcels, beginning in 1997. In order to help resolve this situation the United Nations Office of Verification has been asked to identify all properties under the programme which, according to legislative decree, are exempt from debt, so that the original pro indiviso titles may be transferred without further delay. A mechanism for the distribution of titles similarly free of debt should be adopted by the Lands Bank, if efforts currently under way to eliminate the need for immediate payment (pronto pago) of the portion of the debt of programme beneficiaries not forgiven by the law prove successful.

19. The transfer of lands in excess of the constitutional limit of 245 hectares to landless peasants has experienced some advances in recent months, particularly with respect to the technical and legal revision of cases brought by peasant organizations to the Joint National Group for 245 Hectares. However, there is a need to proceed promptly to the transfer of those lands whose excess has already been identified by the Group in order to fulfil both constitutional requirements and the commitment undertaken in the peace accords.

20. The transfer of the productive and social infrastructure of rural human settlements, as well as their housing, to their current occupants remains a complicated undertaking that requires continued efforts from all involved parties, including the affected communities. In recent months this programme has suffered significant delays in its operational aspects. The phase of measuring and legalization of properties, whose conclusion was foreseen for the beginning of October, has still not been completed. The transfer of only a minimal number of properties has been negotiated with their respective landowners. This disappointing rate of progress is in spite of the fact that the trilateral working group was able to establish agreements that allowed for negotiations to advance even with those landowners who had asked for severely

inflated prices. Meanwhile, the payment for and distribution of property titles (escrituraciones) of the few properties successfully negotiated between July and September has come to a halt. This situation could adversely affect the programme as a whole and delay its completion until an undetermined date in 1997.

21. In parallel with the operational phase of the programme, the parties have yet to reach an accord on fundamental issues relating to the transfer of the social and productive infrastructure. There have been no advances in the dialogue between the communities and the Government authorities regarding the transfer to the latter of the schools and health clinics in the settlements, while the legal conditions necessary to transfer the productive infrastructure have yet to be determined. The persistence of these problems could compromise still further the satisfactory completion of this programme.

22. There also remains a potentially destabilizing situation with respect to some 14,000 family members of combatants killed during the conflict who have still not been able to present to Government authorities the documentation required to secure benefits from the Fund for the Protection of the War-Wounded and Disabled. However, I am pleased to report that after an impasse of some months, the Attorney-General, on the initiative of an inter-institutional group convened by the United Nations Office of Verification in July, has drawn up a draft project designed to offer legal support to this sector of the population so as to help family members obtain the requisite documentation. The inter-institutional group is currently analysing possible alternatives to the project designed by the Attorney-General, as well as the different methods by which each of the institutions involved might contribute to its funding. In view of the extensive delays already suffered by this programme, it is important that the Government redouble its efforts, financial and operational, to resolve the situation of the family members, many of whom have been left in very precarious financial circumstances.

V. ELECTORAL MATTERS

23. On a number of occasions I have informed the members of the General Assembly and Security Council of the delays encountered in the implementation of the recommendations of the inter-party Commission appointed by the President in November 1994 to examine the question of electoral reform (see, for example, A/50/935, para. 25). The implementation of those recommendations, which included the creation of a national civil register responsible for issuing a single identity and voter card, the introduction of residential voting, and the introduction of proportional representation in the municipal councils, would constitute a significant advance in El Salvador's electoral system. Enhanced confidence in the electoral process, which was an important objective of the reforms recommended by the inter-party Commission, is a vital component in the consolidation of El Salvador's transition to democracy. It is to be hoped that the 1999 presidential elections will be able to benefit from an electoral system reformed in accordance with those recommendations.

VI. TECHNICAL ASSISTANCE PROGRAMMES

24. The provision of appropriate technical assistance to strengthen national institutions in support of the peace process as a whole assumes central importance as the end of the mandate of the United Nations Office of Verification approaches. The United Nations Development Programme (UNDP), working in close collaboration with the Office and in consultation with the beneficiary organizations, has formulated and put into execution technical assistance programmes in the areas of administration of justice; public security; the reintegration of former combatants and demobilized soldiers; the Fund for the Protection of the War-Wounded and Disabled; the protection of human rights; and democratic participation. During the final three months of 1996 a further nine programmes will be initiated. To date, Denmark, Mexico, the Netherlands, Norway, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland, the European Union and UNDP have approved resources for projects totalling US$ 12.2 million, while approval of a further $2.8 million is expected shortly. These amounts are in addition to the human resources provided by these and other countries.

25. As I reported to the Security Council on 31 July, I have entrusted to UNDP the important task of supporting the consolidation of the peace process through the identification of assistance needs, the mobilization of resources from bilateral and multilateral donors and the execution and supervision of projects. I shall continue to rely on UNDP and the Resident Coordinator, as well as on the other agencies, offices and programmes of the United Nations system active in El Salvador, to cooperate closely with the Organization's efforts as verification of the peace accords approaches its conclusion.

VII. ADMINISTRATIVE ASPECTS

26. At the time of its establishment on 1 May 1996, the United Nations Office of Verification consisted of six international officials, three civilian police consultants and a reduced number of administrative staff. Throughout its mandate the Office has received administrative support, including the disbursement of funds, from UNDP. I should like to pay tribute to my Representative, Mr. Ricardo Vigil (Peru), and his staff for their efforts to further the implementation of the peace accords in El Salvador.

27. In adopting resolution 50/226, the General Assembly, on the recommendation of the Fifth Committee (A/50/951), authorized the Secretary-General to enter into commitments up to $1 million net of staff assessment ($1,135,900 gross) for the United Nations Office of Verification for the period between 1 May and 31 December 1996. I should like to reiterate my thanks to Denmark, Norway and Sweden, which continue to contribute generously to the Trust Fund for MINUSAL in support of United Nations activities in El Salvador.

VIII. OBSERVATIONS

28. Improving public security in El Salvador continues to be a matter of great concern to the authorities and people of El Salvador; the gravity of the situation in recent months has kept this issue at the centre of the national agenda. In these circumstances, and in order to ensure that the advances resulting from the peace accords continue to be consolidated, it is necessary for the different state bodies concerned with public security to assume fully their responsibilities with respect to the execution of public policy. At the same time these actions should be complemented by an adequate exercise of democratic control by the political parties represented in the Legislative Assembly. Non-governmental organizations and the media also have an important role to play in this regard.

29. Respect for human rights is one of the main factors to be taken into account in evaluating the positive transformation initiated in El Salvador by the end of the armed conflict. Consistent progress is evident, but the risk that situations could occur which would cause setbacks in this area has not been totally eliminated. Serious, systematic and massive violations of human rights are a thing of the past. The challenge now facing the country is the need to establish a binding relationship between full respect for human rights and the consolidation of democratic institutions. In this context, I am particularly concerned by the repeated death threats received by the National Counsel for the Defence of Human Rights. I trust that the competent authorities will undertake both a serious investigation to identify those responsible and appropriate measures to protect her.

30. In the light of the measures to restructure the agrarian debt contemplated by Decree 699, as well as the Government's proposal to divide pro indiviso properties into parcels in the coming year (see para. 18 above), efforts should be made by the authorities to provide beneficiaries with original titles, free of debt. This measure would guarantee beneficiaries full legal security over their properties. In addition, I urge the Government to maintain active all the working groups currently in operation in the social and economic areas and provide the financing necessary to guarantee the full implementation of the remaining aspects of the respective peace accords.

31. The programme for rural human settlements continues to make slow progress, principally because of the complexity of the problems that remain to be resolved. I urge all the entities concerned to act with flexibility and creativity to end the situation of legal uncertainty in which the beneficiaries of the programme find themselves, and thus prevent the exacerbation of social tension in areas of the country which were most affected by the past conflict.

32. The implementation of the commitments undertaken by the parties to the peace accords is entering its final phase. I therefore take this opportunity to reiterate my admiration of the unflagging efforts of President Calderón Sol, the parties to the peace accords and the Salvadoran people to achieve and consolidate peace. The process that began with the conclusion of the armed conflict is today internationally recognized as exemplary.

33. From the beginning of this process the United Nations assumed the responsibility entrusted to it by the parties to verify full implementation of the peace accords. In view of the progress achieved during the past five years and of consultations with the parties, I recommend that the responsibilities of verification and good offices entrusted to the United Nations be executed through periodic visits to El Salvador by a high-level envoy from New York. I therefore propose to withdraw my Representative in El Salvador at the conclusion of the mandate of the United Nations Office of Verification on 31 December 1996.

34. The envoy's visits to El Salvador will enable her or him to keep me regularly informed of advances in those areas of the peace accords in which elements have still to be fully implemented and of the further development of institutions which have been created by the peace accords or have resulted from measures taken in concert with them. The envoy will be assisted in the discharge of these responsibilities by a small support unit that will remain in the field, with the administrative support of UNDP, for a period of six months, at the end of which I would present to the General Assembly an assessment of the state of the peace process in El Salvador.